

ORDINANCE 8600
AN ORDINANCE ADOPTING CHAPTER 8.97
CHRONIC PUBLIC NUISANCE PROPERTIES

WHEREAS, the City of Granite City is a home rule unit per article VII section 6 of the Illinois State Constitution of 1970; and

WHEREAS, the City Council of the City of Granite City finds that properties which become a chronic public nuisance can become detrimental and burdensome to the City of Granite City;

WHEREAS, it is the intent of this Ordinance that the City of Granite City be allowed to handle matters of chronic public nuisance properties in a judicious and expedient way.

Now, therefore, be it ordained by the City Council of the City of Granite City, Illinois, adopts to its Municipal Code Chapter 8.97 which shall read as follows:

PLEASE SEE ATTACHED ORDINANCE

Passed this 8th day of February, 2017.

APPROVE: Ed Hagnauer
Mayor Edward Hagnauer

ATTEST:

Judy Whitaker
City Clerk Judy Whitaker

CHAPTER 8.97

CHRONIC PUBLIC NUISANCE PROPERTIES

8.97.010: CHRONIC PUBLIC NUISANCE PROPERTY

- A. Any certain property within the City of Granite City which becomes a chronic public nuisance property is in violation of this chapter and is subject to its remedies.
- B. Any person in charge who permits property under his or her ownership or control to be a chronic public nuisance property shall be in violation of this chapter and is subject to its remedies.

8.97.020: DEFINITIONS

CHIEF OF POLICE: The Chief of Police or any officer designated by the Chief of Police.

BUILDING AND ZONING ADMINISTRATOR: The Building and Zoning Administrator or any inspector designated by the Building and Zoning Administrator

CHRONIC PUBLIC NUISANCE PROPERTY: Property upon which three (3) or more of the behaviors listed below have occurred during any two hundred seventy (270) day period, as a result of any three (3) separate factual events that have been independently investigated by any law enforcement agency:

A. Unlawful use of weapons as defined in 720 ILCS 5/24-1 et seq.

B. Mob action as defined in 720 ILCS 5/25-1.

C. Discharge of a firearm as defined in 720 ILCS 5/24-1.2 and 1.5.

D. Gambling as defined in 720 ILCS 5/28-1.

E. Possession, manufacture or delivery of controlled substances as defined by 720 ILCS 5/12-15 et seq.

F. Sexual abuse or related offenses as defined in 720 ILCS 5/11-9.

G. Public indecency as defined in 720 ILCS 5/11-9.

H. Prostitution as defined in 720 ILCS 5/11-14 et seq.

I. Possession, cultivation, manufacture or delivery of cannabis as defined in 720 ILCS 550/1 et seq., excepting therefrom the possession, cultivation, manufacture or delivery of cannabis legalized for medical purposes in accordance with 410 ILCS 130.

J. Illegal consumption or possession of alcohol as defined in 235 ILCS 5/1 et seq.

K. Three (3) convictions for Granite City building code or property maintenance violations. The three (3) convictions as stated herein shall constitute one of the behaviors as outlined in this definition. No more than one of the three (3) of the behavior requirements as listed herein shall be from this subsection within the two hundred seventy (270) day period.

L. Battery as defined in 720 ILCS 5/12-3.

M. Violation of the Litter Control Act as defined in 415 ILCS 105/6.

CONTROL:

The ability to regulate, restrain, dominate, counteract or govern conduct that occurs on that property.

OWNER:

Any person, agent, trust, firm or corporation having any legal or equitable interest in the property. Owner includes, but is not limited to: a) a mortgagee in whom possession and/or title is vested; b) an occupant who can control what occurs on the property; and /or c) a property manager.

PERMIT:

To suffer, allow, consent to, acquiesce by failure to prevent, or expressly assent or agree to the doing of an act.

PERSON:

Any natural person, association, trust, partnership or corporation capable of owning or using property in the City of Granite City.

**PERSON IN
CHARGE:**

Any person in actual or constructive possession of a property, including but not limited to, an owner, occupant of property under his or her domain, ownership or control.

PROPERTY:

Any real property, including land in that which is affixed, incidental or pertinent to land, including, but not limited to, any premises, room, house, building, or structure or any separate part or portion thereof, whether permitted or not.

8.97.030: REMEDY

- A. In the event a court determines property to be a chronic nuisance property, the court may order that the property be closed and secured against all use and occupancy for a period of not less than thirty (30) days, but not more than one hundred eighty (180) days, or the court may employ any other remedy deemed by it to be appropriate to abate the nuisance.
- B. In addition to the remedy provided in subsection A of this section, the court may impose upon the owner of the property a civil penalty in the amount of up to seven hundred and fifty (\$750.00) per day, payable to the City of Granite City, for each day the owner had actual knowledge that the property was a public nuisance property and permitted the property to remain a chronic public nuisance property.
- C. In determining what remedy or remedies shall employ, the court may consider evidence of other conduct which has occurred on the property, including, but not limited to:
 - 1. The disturbance of neighbors.
 - 2. The recurrence of loud and obnoxious noises.
 - 3. Repeated consumption of alcohol in public.

8.97.040: ABATEMENT OF NUISANCE

The Office of the Granite City City Attorney or the state's attorney of Madison County may commence an action to abate chronic public nuisance as described above. Upon being satisfied by affidavits or other sworn evidence that an alleged chronic public nuisance exists, the court may, without notice or bond, enter a temporary restraining order or a preliminary injunction to enjoin any defendant from removing or interfering with all property used in connection with the chronic public nuisance.

8.97.050: PROCEDURE

- A. When the Chief of Police of the City of Granite City receives two (2) or more police reports documenting the occurrence of nuisance activity on or within a property, the Chief of Police shall independently review such reports to determine whether they describe criminal acts. Upon such findings, the Chief shall notify, in writing, the Granite City Building and Zoning Administrator. Upon said notice by the Chief of Police or upon the finding by the Building and Zoning Administrator that the property has received three (3) or more ordinance violation convictions, the Building and Zoning Administrator shall:

1. Notify the person in charge in writing that the property is in danger of becoming a chronic public nuisance property. The notice shall contain the following information:
 - a. The street address or a legal description sufficient for identification of the property.
 - b. A statement that the Chief of Police has information that the property may be a chronic public nuisance property and/or a statement that the Building and Zoning Administrator has found that three (3) or more ordinance violation convictions have occurred, with a concise description of the nuisance activities that may exist, or that have occurred leading to a determination that the property may be a chronic public nuisance property. The written notification shall offer the person in charge an opportunity to propose, in writing, a course of action that the person in charge believes will abate the nuisance activities giving rise to the violation.
 - c. Demand that the person in charge respond, in writing, to the Building and Zoning Administrator within ten (10) days of the date of notification to discuss the nuisance activities.
- B. After complying with the notification procedures described in 8.97.050 and upon Chief of Police receiving a police report documenting the occurrence of a third nuisance activity at or within a property and determines that the property has become a chronic public nuisance property, the Chief of Police shall notify, in writing, the Building and Zoning Administrator of said third nuisance activity or upon the Building and Zoning Administrator determining that three (3) ordinance violation convictions have occurred in accordance with 8.97.020(A) thereby constituting a third violation, the Building and Zoning Administrator shall:
 1. Notify the person in charge in writing that the property has been determined to be a chronic public nuisance property. The notice shall contain the following information:
 - a. The street address or legal description sufficient for identification of property.
 - b. A statement that the Chief of Police has determined the property to be chronic public nuisance property with a concise description of the nuisance activities leading to his/her findings and/or a statement that three (3) or more ordinance violation convictions have occurred.
 - c. Demand that the person in charge respond in writing within ten (10) days to the Building and Zoning Administrator with a proposed course of action that the Building and Zoning Administrator agrees will abate the nuisance activities giving rise to the violations.

- d. Service shall be made either personally upon the person in charge or by first class mail, postage paid, and certified mail, return receipt requested, addressed to the person in charge at the address of the property believed to be a chronic public nuisance property, and such other place which is likely to give the person in charge notice of the determination by the Chief of Police and Building and Zoning Administrator.
 - e. A copy of the notice shall be served on the owner at such address as shown on the tax rolls of the county in which the property is located, and/or the occupant, at the address of the property, if these persons are different than the person in charge, and shall be made either personally or by first class mail, postage prepaid.
 - f. A copy of the notice shall also be posted at the property after ten (10) days has elapsed from the personal service or mailing of the notice to the person in charge and the person in charge has not contacted, in writing, the Building and Zoning Administrator.
 - g. The failure of any person to receive notice that the property may be a chronic public nuisance property shall not invalidate or otherwise affect the proceedings under this chapter.
2. If after the notification, but prior to the commencement of legal proceedings by the City pursuant to this chapter, a person in charge stipulates with the Building and Zoning Administrator that the person in charge will pursue a course of action the parties agree will abate the nuisance activities giving rise to the violation, the Building and Zoning Administrator may agree to postpone legal proceedings for a period of not less than ten (10) days nor more than thirty (30) days. If the agreed course of action does not result in the abatement of the nuisance activity or if no agreement concerning abatement is reached within thirty (30) days, the Building and Zoning Administrator shall request authorization for the Office of the Granite City City Attorney to commence a legal proceeding to abate the nuisance.
3. Concurrent with the notification procedures set forth herein, the Building and Zoning Administrator shall send copies of the notice, as well as, any other documentation which supports legal proceedings to the Office of the Granite City City Attorney.

C. When a person in charge makes a response to the Building & Zoning Administrator as required above, any conduct of statements made in connection with the furnishing of that response shall not constitute an admission that any nuisance activities have or are occurring. This subsection does not require the exclusion of any evidence which is otherwise admissible or offered for any other purpose.

8.97.060: COMMENCEMENT OF ACTION, BURDEN OF PROOF:

- A. In an action seeking closure of a chronic public nuisance property, the City shall have the initial burden of showing by preponderance of the evidence that the property is a chronic public nuisance property.
- B. It is a defense to an action seeking the closure of chronic public nuisance property that the owner of the property at the time in question could not, in the exercise of reasonable care of diligence, determine that the property had become a chronic public nuisance property, or could not, in spite of the exercise of reasonable care and diligence, control the conduct leading of the findings that the property is a chronic public nuisance property.
- C. In establishing the amount of any civil penalty requested, the court may consider any of the following factors if they need to be found appropriate, and shall cite those found applicable:
 - 1. The actions or lack of action taken by the person in charge to mitigate or correct the problem at the property.
 - 2. Whether the problem at the property was repeated or continuous.
 - 3. The magnitude or gravity of the problem.
 - 4. The cooperation of the person in charge with the City.
 - 5. The cost of the City investigating and correcting or attempting to correct the condition.

8.97.070: EMERGENCY CLOSING PROCEDURES:

- A. In the event that it is determined the property is an immediate threat to the public safety and welfare, the City may apply to the circuit court for such interim relief, as is deemed by the Chief of Police and/or the Building and Zoning Administrator to be appropriate. In such an event, the notification provision set forth in section 8.97.050 of this chapter need not be complied with, however, the City shall make a diligent effort to notify the person in charge prior to a court hearing.
- B. In the event that the court finds the property constitutes a "chronic public nuisance property" as defined in this chapter, the court may order the remedy set out above. In addition, in the event that it also finds the person in charge had knowledge of activities or conditions of the property constituting or violating this chapter and permitted the activities to occur, the court may assess a civil fine as provided above.
- C. The court may authorize the City of Granite City to physically secure the property against use or occupancy in the event the owner fails to do so within the time specified by the court. In the event that the City is authorized to secure the property, all costs reasonably

incurred by the City to affect a closure shall be made and assessed as a fine against the property. If used herein, "costs" shall mean the costs actually incurred by the City for the physical securing of the property.

- D. The Building and Zoning Administrator affecting the closure shall prepare a statement of cost and the City of Granite City shall thereafter submit said statement to the court for its review. If no objection of the statement is made within the period described by the court, a lien in said amount may be recorded against said property.
- E. Any person who is assessed the cost of closure and/or civil penalty by the court shall be personally liable for the payment thereof to the City.

8.97.080: SEVERABILITY

If any provision of this chapter or its application, or any person or circumstances held to be invalid for any reason, the remainder of said application of its provisions to the other persons or circumstances shall not be in any way affected.

8.97.090: CONFLICTS: APPLICABILITY

All ordinances or parts of other ordinances in conflict herewith shall be and hereby are repealed to the extent of any such conflict. This chapter shall be in full force and effect on and after its passage, approval, and publication in pamphlet form in accordance with state statutes.